

This letter responds to a general information request regarding sales and excise taxes. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

June 20, 2005

Dear Xxxxx:

This letter is in response to your letter dated December 13, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

In preparation for 2005, we are in need of your assistance with updating our general taxability guidelines. Attached is a tax matrix. Please insert a 'Tax Code' (taxable or exempt) and reference any applicable statutes or regulations. We would also appreciate any comments for product or service areas that have special or changing provisions.

We appreciate your assistance with this inquiry. Do not hesitate to contact me with any questions.

#### **DEPARTMENT'S RESPONSE:**

We are unable to complete your tax matrix in the manner requested, however, we hope the following information regarding general tax liability and information will be helpful.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their

Retailers' Occupation Tax liability incurred on those sales. If the purchases occur outside Illinois, purchasers must self assess their Use Tax liability and remit it directly to the Department.

Information regarding the various tax liabilities mentioned in your request may be found under the following regulations:

Transportation and Delivery Costs:	86 Ill. Adm. Code 130.415
Telecommunications:	86 Ill. Adm. Code 495.100 et seq.
Computer Software:	86 Ill. Adm. Code 130.1935
Software Maintenance Agreements:	86 Ill. Adm. Code 130.1935(b)
Construction Contractors:	86 Ill. Adm. Code 130.1940, and 86 Ill. Adm. Code 130.2075
Service Occupation Tax:	86 Ill. Adm. Code 140.101 et seq.
Manufacturing, Machinery and Equipment:	86 Ill. Adm. Code 130.330
Manufacturer's Purchase Credit:	86 Ill. Adm. Code 130.331
Electricity Excise Tax :	86 Ill. Adm. Code 511.100 et seq.
Gas Revenue Tax:	86 Ill. Adm. Code 470.101 et seq.
Gas Use Tax:	86 Ill. Adm. Code 471.101 et seq.
Rolling Stock:	86 Ill. Adm. Code 130.340

Please note, electricity and natural gas delivered by a utility company is not subject to the State sales tax, however, the electricity and natural gas would be subject to Electricity Excise Tax, Gas Revenue Tax and Gas Use Tax cited above. In addition, please note that fuel oil is subject to Retailers' Occupation Tax.

The above stated areas of taxation do not include any local occupation taxes that may apply. For an example of local occupation taxes, please see 86 Ill. Adm. Code 220.101 et seq. In addition, you may find information regarding the above stated regulations, including the Department's sales tax "Sunshine Letter" rulings, which have addressed many of the issues you raise, on the Department's internet website under the heading of "Legal Research."

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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